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MAILED
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OFFICE OF PETITIONS

In re Application of :
Awad :
Application No. 09/973,831 :
Filed: October 11, 2001 :
Attorney Docket No. N/A :
For: GOLD, PLATINUM, PALLADIUM, :
SILVER AND ALL PRECIOUS METALS :
AND PRECIOUS ELEMENTS MADE FROM :
OTHER ELEMENTS BY SPLITTING :
ON PETITION

This decision addresses the constructive petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 12, 2003, and the petition to revive under 37 CFR 1.137(a), filed November 1, 2004.

The constructive petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the final Office action, mailed November 7, 2003, as was explained in the June 25, 2004 Notice of Abandonment.

However, the first Office action that was mailed to an incorrect address was the September 12, 2002 non-final Office action, which set a three month extendable period for reply. A review of the written record indicates an irregularity in the mailing of the Office action of September 12, 2002. In this regard, the Office ignored the explicit direction in the originally filed declaration to address all correspondence to the Lebanon address. Instead, the Office addressed all correspondence to a Michigan, U.S.A. address.

This error resulted in the September 12, 2002 non-final Office action being mailed to an incorrect address. On May 12, 2003, applicant filed an amendment and the present constructive petition to withdraw the holding of abandonment. The petition was never addressed and prosecution continued.

The Office mailed a final Office action to the same incorrect address on November 7, 2003. On April 28, 2004, applicant filed a change of correspondence address that was never entered. On April 29, 2004, applicant filed an amendment accompanied by a letter requesting that his amendment be considered timely filed without an extension of time because the Office failed to correct his address.

It is noted that applicant has filed multiple copies of his requests to correct the correspondence address, but the Office has ignored them all. The Office has mailed all correspondence in the application to an incorrect address.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(a) is dismissed as moot.

For future reference, a petition under 37 CFR 1.137(a) will not be considered on the merits unless it is accompanied by the required petition fee.

After the mailing of this decision, the application will be returned to the Technology Art Unit 3663 for further examination. The April 29, 2004 amendment is to be considered a supplemental amendment, as it would be unjust to hold applicant accountable for the November 7, 2003 final Office action that was addressed incorrectly.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

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